

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

DEC 26 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ANAYELI PULIDO-TORREZ, aka  
Anayeli Pulido-Montiel,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

Nos. 06-72727  
06-73708

Agency No. A075-585-595

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted December 17, 2008\*\*

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

In these consolidated petitions, Anayeli Pulido-Torrez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA")

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

orders denying her motion to remand and dismissing her appeal from an immigration judge's decision denying her application for cancellation of removal (No. 06-72727), and denying her motion to reconsider (No. 06-73708). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law and constitutional claims. *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003). We dismiss in part and deny in part the petition for review in No. 06-72727, and we deny the petition for review in No. 06-73708.

We lack jurisdiction to review the agency's discretionary determination that Pulido-Torrez failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929-30 (9th Cir. 2005).

The evidence Pulido-Torrez presented with her motion to remand, including evidence regarding hardship to her son and mother, concerned the same basic hardship grounds previously considered by the agency. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore lack jurisdiction to review the BIA's conclusion that the evidence would not alter the agency's prior discretionary determination that Pulido-Torrez failed to establish the requisite hardship. *Id.* at 600.

Pulido-Torrez's contention that the BIA violated due process by failing adequately to consider the evidence is unpersuasive. *See id.* at 603-04. Moreover, we are not persuaded that the BIA applied an incorrect legal standard in determining that remand was not warranted.

In her opening brief, Pulido-Torrez fails to address, and therefore has waived any challenge to, the BIA's denial of her motion to reconsider. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

**No. 06-72727: PETITION FOR REVIEW DISMISSED in part; DENIED in part.**

**No. 06-73708: PETITION FOR REVIEW DENIED.**